

AMENDED IN SENATE APRIL 17, 2006

SENATE BILL

No. 1818

Introduced by Senator ~~Ortiz~~ Alarcon

February 24, 2006

An act to amend Section 1021.5 of the Code of Civil Procedure, relating to attorneys' fees.

LEGISLATIVE COUNSEL'S DIGEST

SB 1818, as amended, ~~Ortiz~~ Alarcon. ~~Attorneys'~~ Attorney's fees.

Under existing law, a court may award ~~attorneys'~~ attorney's fees to a successful party against one or more opposing parties in any action that has resulted in the enforcement of an important right affecting the public interest and if a significant benefit has been conferred on the general public or a large class of persons and other conditions are satisfied. With respect to actions involving public entities, this provision applies to allowances against, but not in favor of, public entities.

This bill would provide that a public entity may recover ~~attorneys'~~ attorney's fees as the prevailing party upon motion to the court if it can show that a significant benefit has been conferred on, or an important principle has been established for the benefit of, the public.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 1021.5 of the Code of Civil Procedure
2 is amended to read:

1 1021.5. (a) Upon motion, a court may award ~~attorneys'~~
2 *attorney's* fees to a successful party against one or more
3 opposing parties in any action that has resulted in the
4 enforcement of an important right affecting the public interest if
5 all of the following are met:

6 (1) A significant benefit, whether pecuniary or nonpecuniary,
7 has been conferred on the general public or a large class of
8 persons.

9 (2) The necessity and financial burden of private enforcement,
10 or of enforcement by one public entity against another public
11 entity, are such as to make the award appropriate.

12 (3) Those fees should not in the interest of justice be paid out
13 of the recovery, if any.

14 (b) With respect to actions involving public entities, no claim
15 shall be required to be filed therefor. A public entity may recover
16 *attorney's* fees as the prevailing party upon motion to the court if
17 it can show that a significant benefit has been conferred on, or an
18 important principle has been established for the benefit of, the
19 public.

20 (c) ~~Attorneys'~~ *Attorney's* fees awarded to a public entity
21 pursuant to this section shall not be increased or decreased by a
22 multiplier based upon extrinsic circumstances, as discussed in
23 *Serrano v. Priest*, 20 Cal. 3d 25, 49.